

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

CHRISTOPHER IRWIN,	)	
	}	
Plaintiff,	}	
v.	}	Civil Action No. 04-246 Erie
	}	
CHARTIERS TWP. POLICE DEPT.,	}	
et al.,	}	
	}	
Defendants.	}	

**MEMORANDUM ORDER**

Plaintiff's civil rights complaint was received by the Clerk of Court on August 27, 2004 and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The magistrate judge's report and recommendation, filed on March 14, 2006, recommended that:

1. the motion to dismiss filed by Defendants Chartiers, Raymond, and Horvath [Doc. # 35] be granted and said Defendants be dismissed from this action;
2. Plaintiff's claims against Defendants Nurse Cheryl, Nurse Esther, and Nurse Jill be dismissed to the extent they relate to incidents that allegedly occurred prior to August 27, 2002, as said claims are barred by the applicable statutes of limitations;
3. Plaintiff's claims against Defendants Temas, Hamett, Allegheny Count Sheriff, Dr. John, and Dr. Dirskin be dismissed in their entirety, as Plaintiff has failed to serve said Defendants within 120 days, in accordance with the requirements of Rule 4(m) of the Federal Rules of Civil Procedure; and
4. Plaintiff's claims against Defendant Pelzer be dismissed for Plaintiff's failure to state a claim upon which relief may be granted.

The parties were allowed ten (10) days from the date of service to file objections. Service was made on Plaintiff by certified mail at SCI Albion, where he is incarcerated, and on the Defendants. No objections were filed. After de novo review of the

complaint and documents in the case, together with the report and recommendation, the following order is entered:

AND NOW, this 3<sup>rd</sup> Day of April, 2006;

IT IS HEREBY ORDERED that:

1. the motion to dismiss filed by Defendants Chartiers, Raymond, and Horvath [Doc. # 35] be granted and said Defendants be dismissed from this action;
2. Plaintiff's claims against Defendants Nurse Cheryl, Nurse Esther, and Nurse Jill be dismissed to the extent they relate to incidents that allegedly occurred prior to August 27, 2002, as said claims are barred by the applicable statutes of limitations;
3. Plaintiff's claims against Defendants Temas, Hamett, Allegheny County Sheriff, Dr. John, and Dr. Dirskin be dismissed in their entirety, as Plaintiff has failed to serve said Defendants within 120 days, in accordance with the requirements of Rule 4(m) of the Federal Rules of Civil Procedure; and
4. Plaintiff's claims against Defendant Pelzer be dismissed for Plaintiff's failure to state a claim upon which relief may be granted.

The report and recommendation of Magistrate Judge Baxter, dated March 14, 2006, is adopted as the opinion of this Court.

s/ SEAN J. McLAUGHLIN

Sean J. McLaughlin  
United States District Judge

cc: all parties of record  
U.S. Magistrate Judge Baxter